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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,802	12/02/2003	Michael Joseph Washburn	139682UL (15276US01)	3317
23446 7590 03/28/2008 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER BODDIE, WILLIAM				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/725,802

**Applicant(s)**

WASHBURN, MICHAEL JOSEPH

**Examiner**

WILLIAM L. BODDIE

**Art Unit**

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In an amendment dated, February 25<sup>th</sup>, 2008 the Applicant amended claims 1, 3-4, 7, 10, 13 and 22. Currently claims 1-22 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 25<sup>th</sup>, 2008 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5-8, 11, 13-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCabe et al. (US 5,868,676) in view of Goto (US 5,832,323).

**With respect to claim 1**, McCabe discloses, a method for remotely operating a medical diagnostic imaging system (fig. 1), said method comprising;

moving a trackball in a trackball device (61 in fig. 1);

translating movement of said trackball to a command for execution at said medical diagnostic imaging system (col. 7, lines 36-67);

transmitting said command based on movement of said trackball to said display imaging system from said handheld trackball device (col. 8, lines 1-10; for example);

and

executing said command at said display imaging system, wherein said command comprises adjusting a setting or function of said display imaging system based on said command (command adjusts the "P value" to fine tune the maximum velocity curve; col. 7, lines 43-51).

McCabe does not expressly disclose that the movement is rotational or that device is handheld.

Goto discloses a method for operating an imaging system (fig. 4), said method comprising:

moving a trackball in a handheld trackball device (figs. 5-7);

translating rotational movement of said trackball to a command for execution at said imaging system (col. 20, lines 28-33);

transmitting said command based on rotational movement of said trackball to said imaging system from said handheld trackball device (col. 20, lines 28-33; col. 22, lines 30-32; for example).

Goto and McCabe are analogous art because they are from the same field of endeavor namely trackball input device controls for imaging devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use rotational motion of McCabe's remote trackball to command the imaging system; as taught by Goto.

The motivation for doing so would have been to improve the ergonomics and operability of the trackball (Goto; col. 6, lines 38-51; for example).

**With respect to claim 3,** McCabe and Goto disclose, the method of claim 1 (see above).

McCabe does not expressly disclose depressing said trackball.

Goto further discloses, transmitting said command based on depressing said trackball (col. 21, lines 30-35).

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the switch of Goto under the trackball of McCabe for the well-known benefit of ergonomic inputs and ease of use for the user.

**With respect to claim 5,** McCabe and Goto disclose, the method of claim 1 (see above).

McCabe further discloses, controlling said imaging system using a remote keypad (63 and 65 in fig. 1).

**With respect to claim 6,** McCabe and Goto disclose, the method of claim 1 (see above).

McCabe does not expressly disclose pressing a button on said handheld trackball device to trigger an imaging system command.

Goto further discloses, pressing a button (112 in fig. 7) on a handheld trackball device to trigger an imaging system command (col. 21, lines 30-35).

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the switch of Goto under the trackball of McCabe for the well-known benefit of ergonomic inputs and ease of use for the user.

**With respect to claim 7,** McCabe discloses, a trackball device for controlling a medical diagnostic imaging system (fig. 1) said device comprising:

a trackball for controlling said display imaging system based on motion of said trackball (col. 7, lines 36-67);

a transmitter for transmitting a command to said display imaging system based on motion of said trackball (col. 8, lines 1-10; for example)), said command generated through translation of said motion of said trackball to a command for execution at said display imaging system (command adjusts the "P value" to fine tune the maximum velocity curve; col. 7, lines 43-51).

McCabe does not expressly disclose a handheld housing nor that the motion is rotational.

Goto discloses a method for operating an imaging system (fig. 4), said method comprising:

a trackball in a handheld trackball device (figs. 5, 7) for controlling imaging said imaging system based on rotational movement of said trackball (col. 20, lines 28-33);

a transmitter (356 in fig. 23; for example) transmitting said command based on rotational movement of said trackball to said imaging system from said handheld trackball device (col. 20, lines 28-33; col. 22, lines 30-32; for example); and

a housing for holding said trackball (301 in fig. 24; for example) and said transmitter (356 in fig. 23; for example).

At the time of the invention it would have been obvious to one of ordinary skill in the art to include a housing and use rotational motion of McCabe's remote trackball to command the imaging system; as taught by Goto.

The motivation for doing so would have been to improve the ergonomics and operability of the trackball (Goto; col. 6, lines 38-51; for example).

**With respect to claim 8**, McCabe and Goto disclose, the device of claim 7 (see above).

McCabe does not expressly disclose pressing a button on said handheld trackball device to trigger an imaging system command.

Goto further discloses, pressing a button (112 in fig. 7) on a handheld trackball device to trigger an imaging system command (col. 21, lines 30-35).

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the switch of Goto under the trackball of McCabe for the well-known benefit of ergonomic inputs and ease of use for the user.

**With respect to claim 11**, McCabe and Goto disclose, the method of claim 7 (see above).

McCabe further discloses, controlling said imaging system using a remote keypad (63 and 65 in fig. 1).

**With respect to claim 13,** McCabe discloses, a remote mousing device for operating a medical diagnostic imaging system (fig. 1), said device comprising:

a moveable portion (61 in fig. 1) for operating said display imaging system based on motion of said moveable portion (col. 7, lines 36-67); and

a transmitter for transmitting a command to said display imaging system based on said moveable portion (col. 8, lines 1-10; for example), said command generated through translation of motion of said moveable portion to a command for execution at said display imaging system (command adjusts the "P value" to fine tune the maximum velocity curve; col. 7, lines 43-51).

McCabe does not expressly disclose that the motion is rotational.

Goto discloses a method for operating an imaging system (fig. 4), said method comprising:

a trackball in a handheld trackball device (fig. 7) for controlling imaging said imaging system based on rotational movement of said trackball (col. 20, lines 28-33);

a transmitter (356 in fig. 23; for example) transmitting said command based on rotational movement of said trackball to said imaging system from said handheld trackball device (col. 20, lines 28-33; col. 22, lines 30-32; for example).

At the time of the invention it would have been obvious to one of ordinary skill in the art to use the rotational motion of McCabe's remote trackball to command the imaging system, as taught by Goto.



The motivation for doing so would have been to improve the ergonomics and operability of the trackball (Goto; col. 6, lines 38-51; for example).

**With respect to claim 14,** McCabe and Goto disclose, the mousing device of claim 13 (see above).

McCabe further discloses, wherein said moveable portion comprises a trackball (61 in fig. 1).

**With respect to claim 15,** McCabe and Goto disclose, the mousing device of claim 13 (see above).

McCabe further discloses, an additional input receptor (63 in fig. 1; for example).

**With respect to claim 16,** McCabe and Goto disclose, the mousing device of claim 15 (see above).

McCabe further discloses, wherein said additional input receptor is a button (63 in fig 1).

**With respect to claim 17,** McCabe and Goto disclose, the mousing device of claim 13 (see above).

McCabe further discloses, controlling said imaging system using a remote keypad (63 and 65 in fig. 1).

**With respect to claim 19,** McCabe and Goto disclose, the mousing device of claim 13 (see above).

McCabe, when combined with Goto, discloses, wherein said mousing device comprises a handheld mousing device (Goto; figs. 5, 7).

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6. Claims 2, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCabe et al. (US 5,868,676) in view of Goto (US 5,832,323) and further in view of Gaughan et al. (US 5,589,893).

**With respect to claim 2**, McCabe and Goto disclose, the method of claim 1 (see above).

Neither McCabe nor Goto expressly disclose, wherein said transmitting step further comprises wireless transmission of said command to said imaging system.

Gaughan discloses wireless transmission (col. 2, lines 10-13) of a command to an imaging system (fig. 1).

McCabe, Goto and Gaughan are analogous art because they are all from the same field of endeavor namely trackball input device controls for imaging devices.

At the time of the invention it would have been obvious to make the transmission of the commands of McCabe and Goto's device wireless as taught by Gaughan.

The motivation for doing so would have been the well-known benefit of removing location limiting wires and allowing the user more freedom in operation.

**With respect to claim 12**, McCabe and Goto disclose, the device of claim 7 (see above).

Neither McCabe nor Goto expressly disclose, a wireless handheld trackball device.

Gaughan, discloses a wireless handheld trackball device (col. 2, lines 10-13 and fig. 2).

At the time of the invention it would have been obvious to make the transmission of the commands of McCabe and Goto's device wireless as taught by Gaughan.

The motivation for doing so would have been the well-known benefit of removing location limiting wires and allowing the user more freedom in operation.

**With respect to claim 18**, McCabe and Goto disclose, the mousing device of claim 13 (see above).

Neither McCabe nor Goto expressly disclose, a wireless handheld mousing device.

Gaughan, discloses a wireless handheld mousing device (col. 2, lines 10-13 and fig. 2).

At the time of the invention it would have been obvious to make the transmission of the commands of McCabe and Goto's device wireless as taught by Gaughan.

The motivation for doing so would have been the well-known benefit of removing location limiting wires and allowing the user more freedom in operation.

7. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCabe et al. (US 5,868,676) in view of Goto (US 5,832,323) and further in view of Chang (US 5,298,919).

**With respect to claims 4 and 10**, McCabe and Goto disclose, the method of claims 1 and 7 (see above).

Neither McCabe nor Goto expressly disclose, wherein said trackball comprises a wheel on a mousing device.

Chang, discloses mounting a wheel (18 in fig. 1) on a handheld device (10 in fig. 1) for inputting additional movement to a display system.

Chang, McCabe and Goto are analogous art because they are all from the same field of endeavor namely cursor control of imaging devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the wheel of Chang on the trackball device of McCabe and Goto for the clear benefit of allowing additional movement to be inputted into the system.

8. Claims 9 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCabe et al. (US 5,868,676) in view of Goto (US 5,832,323) and further in view of Funda et al. (US 5,417,210).

**With respect to claim 9,** McCabe and Goto disclose, the device of claim 7 (see above).

Neither McCabe nor Goto expressly disclose the use of voice commands to control said imaging system.

Funda discloses, wherein said trackball device works with voice commands to control said imaging system (267 in fig. 1).

Funda, McCabe and Goto are analogous art because they are all from the same field of endeavor namely trackball input device controls for imaging devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the voice command control taught by Funda in the device of McCabe and Goto.

The motivation for doing so would have been so that communications with the system do not interfere with instrument manipulation (Funda; col. 4, lines 13-17).

**With respect to claims 21-22**, McCabe and Goto disclose, the mousing device of claim 13 (see above).

Neither McCabe nor Goto expressly disclose that the mousing device is integrated with an instrument.

Funda discloses, wherein a mousing device is integrated with an imaging instrument (col. 6, lines 32-59; col. 9, lines 65-68).

At the time of the invention it would have been obvious to one of ordinary skill in the art to integrate the mousing device of McCabe and Goto as taught by Funda for the benefit of easily manipulation of the device without removing hands from the instrument (Funda; col. 6, lines 53-59).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCabe et al. (US 5,868,676) in view of Goto (US 5,832,323) and further in view of Holmes (US 6,222,526).

**With respect to claim 20**, McCabe and Goto disclose, the mousing device of claim 13 (see above).

Neither McCabe nor Goto expressly disclose a fastener.

Holmes discloses, a mousing device (12 in fig. 7) comprising a fastener (54 in fig. 7) for affixing said mousing device to an operator (clear from fig. 7).

Holmes, McCabe and Goto are analogous art because they are all from the same field of endeavor namely cursor control of imaging devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the fastener of Holmes on the trackball device of McCabe and Goto for the clear benefit of fastening the input device to the operator.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM L. BODDIE whose telephone number is (571)272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sumati Lefkowitz/  
Supervisory Patent Examiner, Art Unit 2629

/W. L. B./  
Examiner, Art Unit 2629  
3/20/08